

R E M A R K S

I. Introduction

In response to the December 12, 2006 Office Action, Applicant has amended claim 14 to further clarify the subject matter of the present invention. Claim 18 has been cancelled, without prejudice. As claim 18 has been cancelled, the objection of claim 18 under 37 CFR 1.75(c) is moot. No new matter has been added.

For the reasons set forth below, Applicant respectfully submits that all pending claims are patentable over the cited prior art references.

II. The Rejection Of Claims 14, 15, 17 And 18 Under 35 U.S.C. § 103

Claims 14, 15, 17 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ahn (USP No. 6,110,771) in view of Matsuoka et al. (USP No. 6,333,541) and Shepela et al. (USP No. 6,060,387). Applicant respectfully traverses this rejection for at least the following reasons.

With regard to the present invention, amended claim 14 recites, in-part, a semiconductor device comprising a MOS transistor with a plurality of gate electrodes, wherein the gate electrodes are formed on a semiconductor substrate having a silicon layer at least in the surface thereof, ...each of the gate electrodes is arranged between dummy patterns with a space left from each side thereof, ...one of the dummy patterns is a dummy gate electrode which is an electrode pattern having the shape of a gate electrode, and the other dummy pattern is a pattern consisting of insulating material, and the dummy patterns are formed on the isolation insulating film.

It was alleged that Ahn teaches that both gate oxide film 123 and the dummy gate electrode 124c constitute a portion of the dummy patterns.

However, the insulating film 123 of Ahn which is alleged by the Examiner to be a dummy pattern, is a gate insulating film of the dummy gate electrode, not a dummy pattern consisting of insulating material.

The present invention recites that one of two dummy patterns is a dummy gate electrode 32 having a shape of a gate electrode and the other dummy pattern is a pattern 31 consisting of insulating material. As such, the materials of the dummy patterns in the present invention are different from each other and not merely portions of the same dummy pattern. This is clearly seen in Fig. 8B, wherein the dummy gate electrode, or resistance portion 32 is located in a different portion of the semiconductor surface than the other dummy patterns 31. This is in contrast to Ahn, wherein the alleged dummy pattern 123 has the same structure and lies directly underneath the alleged dummy pattern 124c. Accordingly, it is clear that the gate oxide film 123 is merely the insulating film for the dummy gate electrode 124c, which together form one dummy pattern, not two separate dummy patterns. As such, Ahn fails to disclose the limitation wherein one of the dummy patterns is a dummy gate electrode which is an electrode pattern having the shape of a gate electrode, and the other dummy pattern is a pattern consisting of insulating material. Moreover, Matsuoka and Shepela both fail to remedy this deficiency.

In order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974). As Ahn, Matsuoka and Shepela, at a minimum, fail to describe a semiconductor device wherein one of the dummy patterns is a dummy gate electrode which is an electrode pattern having the shape of a gate electrode, and the other dummy pattern is a pattern consisting of insulating material, and the dummy patterns are formed on the isolation insulating film, it is submitted that Ahn, alone or in combination with Matsuoka and Shepela, does not render claim

14 obvious. Accordingly, it is respectfully requested that the § 103 rejection of claim 14, and any pending claims dependent thereon be withdrawn.

III. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 14 is patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

IV. Conclusion

Having fully responded to all matters raised in the Office Action, Applicant submits that all claims are in condition for allowance, an indication of which is respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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